

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

No. CR 16-0440 WHA

v.

YEVGENIY ALEKSANDROVICH
NIKULIN,

FINAL PRETRIAL ORDER

Defendant.

FOR GOOD CAUSE and after a final pretrial conference, the following constitutes the final pretrial order and rulings on motions *in limine*:

1. This case shall go to a JURY TRIAL on MARCH 9 AT 7:30 A.M. with jury selection. Trial will go dark on MARCH 12, 13, AND 16.

2. Rulings on the motions *in limine* are summarized below.

3. Except for good cause, each party is limited to the witnesses and exhibits disclosed in the joint proposed final pretrial order less any excluded or limited by an order *in limine*. Materials or witnesses used solely for impeachment need not be disclosed and may be used, subject to the rules of evidence.

4. A jury of 12 PERSONS AND 2 ALTERNATES shall be used.

5. Jury selection will be conducted as per the Court's normal procedure as discussed at the final pretrial conference.

6. Both sides agree that no witness will speak with any counsel on the subject of her testimony during breaks or recesses while the witness is on cross examination.

7. No explicit time limit was imposed by the Court. Counsel will please be efficient in their use of time.

RULING ON MOTIONS IN LIMINE

GOVERNMENT'S MOTIONS IN LIMINE.

1. ADMIT CO-CONSPIRATOR STATEMENTS.

A subsequent order will address this motion.

2. EXCLUDE EXPERT TESTIMONY OF TAMI LOEHR'S.

Defense counsel has stated they no longer plan to use Tami Loehrs to testify as an expert.

The motion is **DENIED AS MOOT.**

3. OPENING STATEMENTS.

For the reasons stated on the record, the motion is **DENIED**.

4. PRECLUDE REFERENCES TO EXTRADITION, CONFINEMENT, MENTAL COMPETENCY, AND PUNISHMENT.

The unopposed motion is **GRANTED**.

5. PRESENTATION OF UNNOTICED AFFIRMATIVE OR LEGAL DEFENSE TO THE JURY WHERE BURDEN IS ON DEFENSE TO PROFER FOUNDATION TO THE COURT.

The unopposed motion is **GRANTED**.

DEFENDANT NIKULIN'S MOTIONS IN LIMINE.

1. EXCLUDE ALLEGED CO-CONSPIRATOR STATEMENTS.

As stated above, a subsequent order will address this motion.

2. EXCLUDE PRIOR BAD ACT EVIDENCE, BAD CHARACTER EVIDENCE, AND PRIOR CRIMINAL CONVICTIONS.

This order defers on ruling on whether to preclude the government from introducing evidence of a prior bad act, bad character and/or criminal convictions. The parties shall not make reference to such evidence and/or convictions in their opening statements. Before introducing such evidence, the government shall advise the court and defense counsel so that the ruling can be made in advance, but with the benefit of trial evidence.

1 **3. EXCLUDE REFERENCE TO NIKULIN'S FINANCES AND LIFESTYLE.**

2 This order defers on ruling on whether to preclude the government from referencing
3 defendant's finances and lifestyle. The parties shall not make reference to defendant's finances
4 and lifestyle in their opening statements. Before introducing such evidence, the government
5 shall show the video(s) and photograph(s) in question to the Court outside of the jury's
6 presence.

7 **IT IS SO ORDERED.**

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9 Dated: February 24, 2020.
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12 WILLIAM ALSUP
13 UNITED STATES DISTRICT JUDGE